



**THE ATTORNEY GENERAL  
OF TEXAS**

**JIM MATTOX  
ATTORNEY GENERAL**

**August 30, 1990**

Honorable Patricia Hill  
Chairman, Judicial Affairs Committee  
State Representative, District 102  
2001 Ross Avenue, Suite 500  
Dallas, Texas 75201-2916

**LO-90-56**

**Dear Representative Hill:**

You ask for an opinion "construing the visitation schedule now codified in the Texas Family Code." Specifically, you ask "which portions, if any, of the statute are mandatory upon the trial court and which portions, if any, of the statute are discretionary."

We assume that you are asking about the "standard possession order" set out in section 14.033 of the Family Code. Subsection (k) of section 14.033 provides the answer to your question.

**Subsection (k) of section 14.033 provides:**

**Rebuttable Presumption.** In any suit affecting the parent-child relationship, there is a rebuttable presumption that the 'standard order' set forth in this section provides reasonable minimum possession of a child for a parent named as a possessory conservator and that the order is in the best interest of the child. A court may determine that the application of these guidelines would be unworkable or inappropriate under the circumstances and not in the best interest of the child. Without regard to Rules 296 through 299, Texas Rules of Civil Procedure, in all cases in which possession of a child by a parent is contested and the possession of the child is set by the court in variance with the guidelines, on written request made or filed with the court not later than 10 days after the date of the

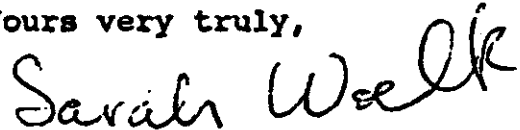
hearing or on oral request made in open court during the hearing, the court shall state in the order the specific reasons for all deviations from the standard possession order.

See also Fam. Code §§ 14.033(m) (unusual circumstances) and (n) (agreements); 14.034 (standard possession order is presumptive minimum amount of visitation).

In other words, the standard order is not mandatory. A judge may enter an order setting out a visitation schedule different from the standard possession order. If a judge does so, however, he or she must give reasons for the variance. Fam. Code § 14.033(k).

If you have any questions regarding this letter, please refer to LO-90-56.

Yours very truly,



Sarah Woelk, Chief  
Letter Opinion Section  
Opinion Committee

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